



Borough of Middlesex
1200 Mountain Avenue
Middlesex, New Jersey 08846

Carmen Modica
Purchasing Agent

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NOTICE TO BIDDERS

Sealed bids will be received by the Purchasing Agent for the Borough of Middlesex on **May 15, 2018** at **10:00am** prevailing time at the Borough of Middlesex, 1200 Mountain Avenue, Middlesex, NJ 08846 at which time and place bids will be opened and read in public for:

TREE REMOVAL, TREE TRIMMING, STUMP GRINDING

Bid responses must be made on the standard proposal forms, be enclosed in a sealed package bearing the name and address of the bidder and the **"BID TITLE NAME"** on the outside, addressed to Carmen Modica, Purchasing Agent, at the address above.

Any Bid Addenda will be issued on the Borough website, and processed in accordance with N.J.S.A. 40A:11-23(c)(1). All interested bidders should check the website from now through bid opening. It is the sole responsibility of the respondent to be knowledgeable of all addenda related to this procurement.

Specifications and instruction to bidders may be obtained at the Purchasing Office or the Borough website at www.middlesexboro-nj.gov.

Bidders shall comply with the requirements of N.J.S.A. 10:5-31 and N.J.A.C. 17-27 et seq. Notwithstanding the General Instructions and other material herein to the contrary, all Bidders are on notice that this process shall be governed by New Jersey Law, including N.J.S.A. 40A:11-1, et seq.

Carmen Modica
Purchasing Agent

Date Advertised: May 1, 2018

BOROUGH OF MIDDLESEX GENERAL INSTRUCTIONS

1. SUBMISSION OF BIDS

- A. Sealed bids shall be received in accordance with public advertisement as required by law, a copy of said notice being attached hereto and made a part of these specifications.
- B. Each bid shall be submitted on the proposal form attached, in a sealed envelope
 - (1) Addressed to the Purchasing Agent
 - (2) Bearing the name and address of the bidder on the outside
 - (3) Clearly marked "**BID**" with the name of the item(s) being bid. Provide One (1) Original & One (1) copy of the bid. **Faxed or emailed bids will NOT be accepted.**
- C. It is the bidder's responsibility to see that bids are presented to the Purchasing Agent on the hour and at the place designated. Bids may be hand delivered or mailed; however, the Borough disclaims any responsibility for bids forwarded by regular or express mail. **If the bid is sent by express mail, the designation in B. above must also appear on the outside of the express company envelope.** Bids received after the designated time and date will be returned unopened.
- D. The Borough reserves the right to postpone the date for presentation and opening of bids and will give written notice of any such postponement to each prospective bidder as required by law.
- E. Sealed bids forwarded to the owner before the time of opening of bids may be withdrawn upon written application of the bidder who shall be required to produce evidence showing that the individual is or represents the principal or principals involved in the bid. Once bids have been opened, they shall remain firm for a period of sixty (60) calendar days.
- F. Each bid proposal form must give the full business address, business phone, fax, e-mail, the contact person of the bidder, and be signed by an authorized representative as follow:
 - Bids by partnerships must be signed in the partnership name by one of the members of the partnership or by an authorized representative followed by the signature and designation of the person signing.
 - Bids by corporations must be signed in the legal name of the corporation, followed by the name of the State in which incorporated and must contain the signature and designation of the president, secretary or other person authorized to bind the corporation in the matter.
 - Bids by sole-proprietorship shall be signed by the proprietor.
 - When requested, satisfactory evidence of the authority of the officer signing shall be furnished.
- G. Multiple Bids Not Accepted
More than one bid from an individual, a firm or partnership, a corporation or association under the same or different names shall not be considered.
- H. Official Request for Bid packages are available from the Borough's website at www.middlesexboro-nj.gov at no cost to the prospective bidders. All addenda are posted on the Borough site and issued in accordance with N.J.S.A. 40A:11-23(c)(1). Potential bidders are cautioned that they are bidding at their own risk if a third party supplied the specifications that may or may not be complete. The Borough of Middlesex is not responsible for third party supplied specifications.
- I. Results of all bids are posted on the Borough website.

2. BID SECURITY

The following provisions, *if indicated by an (x)*, shall be applicable to this bid and be made a part of the bidding documents:

A. ☐ BID GUARANTEE

Bidder shall submit with the bid a certified check, cashier's check or bid bond in the amount of ten percent (10%) of the total price bid, but not in excess of \$20,000, payable unconditionally to the Borough of Middlesex.

When submitting a Bid Bond, it shall contain Power of Attorney for full amount of Bid Bond from a surety company authorized to do business in the State of New Jersey and acceptable to the Borough of Middlesex.

The check or bond of the unsuccessful bidder(s) shall be returned as prescribed by law. The check or bond of the bidder to whom the contract is awarded shall be retained until a contract is executed and the required performance bond or other security is submitted.

The check or bond of the successful bidder shall be forfeited if bidder fails to enter into contract pursuant to statute. Failure to submit required guarantee shall be cause for rejection of the bid.

B. ☐ CONSENT OF SURETY

Bidder shall submit with the bid a Certificate (Consent of Surety) with Power of Attorney for full amount of bid price from a Surety Company authorized to do business in the State of New Jersey and acceptable to the Borough of Middlesex stating that it will provide said bidder to whom the contract is awarded will furnish Performance and Payment Bonds from an acceptable surety company on behalf of said bidder, in performance security equal to the total amount of the contract, pursuant to statute.

Failure to submit this shall be cause for rejection of the bid.

C. ☐ PERFORMANCE BOND

Successful bidder shall simultaneously with the delivery of the executed contract, submit an executed bond in the amount of one hundred percent (100%) of the acceptable bid as security for the faithful performance of this contract.

The performance bond provided shall not be released until final acceptance of the whole work and then only if any liens or claims have been satisfied. The surety on such bond or bonds shall be a duly authorized surety company authorized to do business in the State of New Jersey pursuant to N.J.S.A. 17:31-5. For multi-year contracts, the Performance Bond may be resubmitted each year on the Contract Anniversary Date for the amount remaining on the contract.

Failure to submit this with the executed contract shall be cause for declaring contract null and void pursuant to N.J.S.A. 40A:11-22.

D. ☐ LABOR AND MATERIAL (PAYMENT) BOND

The successful bidder shall with the delivery for the performance bond submit an executed payment bond to guarantee payment to laborers and suppliers for the labor and material used in the work performed under the contract.

Failure to submit a labor and material bond with the performance bond shall be cause for declaring the contract null and void.

E. ☐ **MAINTENANCE BOND**

Upon acceptance of the work by the Borough of Middlesex, the contractor shall submit a maintenance bond (N.J.S.A. 40A:1-16.3) in an amount not to exceed 100% of the project costs guaranteeing against defective quality of work or materials for the period of:

☐ **1 Year**

☐ **2 Years**

3. PREPARATION OF BIDS (PRICING INFORMATION AND FORMS)

A. (1) The Borough of Middlesex is exempt from any local, state or federal sales, use or excise tax. The Borough will not pay for New Jersey State Sales and Use Tax that are included in any invoices. The Borough will not pay service charges such as interest and late fees.

(2) The Borough of Middlesex or any of its offices and divisions will not complete credit applications as a result of contract(s) resulting from award based on these specifications.

B. Bids shall be **signed in ink** (Original Signature Required) by the bidder, all quotations shall be made with a typewriter/computer or pen and ink. Any quotation showing any erasure alteration must be initialed by the bidder in ink. Unit prices and totals are to be inserted in spaces provided.

C. Failure to sign and give all information in the bid may result in the bid being rejected.

D. **Estimated Quantities** (Open-Ended Contracts, Purchase as Needed) The Borough of Middlesex has attempted to identify the item(s) and the estimated amounts of each item bid to cover its requirements; however, past experience shows that the amount ordered may be different than that submitted for bidding. The right is reserved to decrease or increase the quantities specified in the specifications pursuant to N.J.A.C. 5:30-11.2 and 11.10. ***NO MINIMUM PURCHASE IS IMPLIED OR GUARANTEED.***

E. Bidders shall insert prices for furnishing goods and services required by these specifications. Prices shall be net including any charges for packing, crating, containers etc. All transportation charges shall be fully prepaid by the contractor, F.O.B. destination and placement at locations specified by the Borough. No additional charges will be allowed for any transportation costs resulting from partial shipments made at vendor's convenience when a single shipment is ordered.

F. Any bidder may withdraw his bid at any time before the time set for receipt of bids. No bid may be withdrawn in the 60 day period after the bids are received.

G. All forms shall be completed and attached to the bid proposal. ***BIDDER IS ALERTED TO THE BID DOCUMENT CHECKLIST PAGE.***

H. Results of all bids are posted on the Borough website www.middlesexboro-nj.gov

4. FIRM FIXED CONTRACT

This is a firm fixed contract, prices firm, FOB Borough of Middlesex locations. No price escalation. The vendor shall void the contract and permit the Borough to solicit open market pricing should any price increase or surcharge be imposed.

5. INTERPRETATIONS AND ADDENDA

- A. The bidder understands and agrees that its bid is submitted on the basis of the specifications prepared by the Borough. The bidder accepts the obligation to become familiar with these specifications.
- B. Bidders are expected to examine the specifications and related documents with care and observe all their requirements. Ambiguities, errors or omissions noted by bidders should be promptly reported in writing to the Purchasing Agent. In the event the bidder fails to notify the Borough of such ambiguities, errors or omissions, the bidder shall be bound by the bid.
- C. No oral interpretation of the meaning of the specifications will be made to any bidder. Every request for an interpretation shall be in writing, addressed to the Purchasing Agent, referencing the Contract Name and Contract Number in the subject line, at cmodica@middlesexboro-nj.gov. In order to be given consideration, written requests for interpretation and or clarification must be received at last three (3) business days prior to the date fixed for the opening of the bids.
- D. All interpretations, clarifications and any supplemental instructions will be in the form of written addenda to the specifications, and will be distributed to all prospective bidders. All addenda so issued shall become part of the specification and bid documents, and shall be acknowledged by the bidder by completing the Acknowledgement of Receipt of Addenda form. The Borough's interpretations or corrections thereof shall be final.

Pursuant to N.J.S.A. 40A:11-23(c)(1) when issuing addenda, the owner shall provide required notice prior to official receipt of bids to any person who has submitted a bid or who has received a bid package. They will be sent via electronic transmissions to those known recipients of the bid specifications.

- E. Discrepancies in Bids
 - 1. If the amount shown in words and its equivalent figures do not agree, the written words shall be binding. Ditto marks are not considered writing or printing and shall not be used.
 - 2. In the event that there is a discrepancy between the unit prices and the extended totals, the unit price shall prevail. IN the event there is an error of the summation of the extended totals, the computation by the Borough of the extended totals shall govern.

6. BRAND NAMES, STANDARDS OF QUALITY AND PERFORMANCE

- A. Brand names and or descriptions used in this bid are to acquaint bidders with the type of commodity desired and will be used as a standard by which alternate or competitive materials offered will be judged. Competitive items must be equal to the standard described and be of the same quality of work.
- B. Variations between the goods and services described and the goods and services offered are to be fully identified and explained by the bidder on a separate sheet and submitted with the bid proposal form. Vendor's literature ***will not*** suffice in explaining exceptions to these specifications. In the absence of any exceptions by the bidder, it will be presumed and required that materials as described in the proposal be delivered.
- C. It is the responsibility of the bidder to demonstrate the equivalency of goods and services offered. The Borough reserves the right to evaluate equivalency of a product which, in its deliberations, meets its requirements.

- D. In submitting its bid, the bidder certifies that the goods or services to be furnished will not infringe upon any valid patent or trademark and that the successful bidder shall, at its own expense, defend any and all actions or suits charging such infringement, and will save the Borough of Middlesex harmless from any damages resulting from such infringement.
- E. Only manufactured and farm products of the United States, wherever available, shall be used pursuant to N.J.S.A. 40A:11-18.
- F. Wherever practical and economical to the Borough, it is desired that recycled or recyclable products be provided. Please indicate when recycled products are being offered.
- G. The contractor shall guarantee any or all goods and services supplied under these specifications. Defective or inferior goods shall be replaced at the expense of the contractor. The contractor will be responsible for return freight or restocking charges.

7. METHOD OF CONTRACT AWARD

- A. The Borough reserves the right to accept or reject any or all bids, to waive identified irregularities and technicalities, and to award in whole or in part to the lowest responsible bidder, if it is in the best interest of the Borough to do so. Without limiting the generality of the foregoing, any bid which is incomplete, obscure, or irregular may be rejected, any bid having erasures or corrections in the price sheet may be rejected, any bid in which unit prices are omitted, or in which unit/total prices are unbalanced, may be rejected, any bid accompanied by any insufficient or irregular certified check, cashier's check or bid bond may be rejected.
- B. The Borough of Middlesex further reserves the right to award each item separately to the lowest responsible bidder meeting specifications or to make an award based on the total bid to the bidder whose total sum is the low bid meeting the specifications, whichever in the awarding authorities' opinion is in the best interest of the Borough. Without limiting the generality of the foregoing, the Borough reserves the right to award a contract based on either option that may be described in the bid proposal or based on any combination thereof.
- C. The Borough may also elect to award the contract on the basis of unit prices.
- D. The Borough reserves the right to award equal or tie bids at their discretion to any one of the tie bidders.
- E. Should the bidder, to whom the contract is awarded, fail to enter into a contract, the Borough may then, at its option, accept the bid of the next lowest responsible bidder.
- F. The effective period of this contract will be two years unless otherwise noted in the specifications. Continuation of the terms of this contract beyond the fiscal year is contingent on availability of funds in the following year's budget. In the event of unavailability of such funds, the Borough reserves the right to cancel this contract.
- G. The form of contract shall be submitted by the Borough to the successful bidder. Terms of the specifications/bid package prevail. Bidder exceptions must be formally accepted by the Borough; material exceptions shall not be approved.
- H. Government entities are not private business/consumer clients; therefore, separate company agreements are not honored. Terms of the specifications/bid package prevail unless otherwise noted by the vendor as exceptions.

8. CAUSES FOR REJECTING BIDS

Bids may be rejected for any of the following reasons:

- A. All bids pursuant to N.J.S.A. 40A:11-13.2;
- B. If more than one bid is received from an individual, firm or partnership, corporation or association under the same name;
- C. Multiple bids from an agent representing competing bidders;
- D. The bid is inappropriately unbalanced;
- F. If the successful bidder fails to enter into a contract within 21 days, Sundays and holidays excepted, or as otherwise agreed upon by the parties to the contract. In this case at its option, the Borough may accept the bid of the next lowest responsible bidder. (N.J.S.A. 40A:11-24b); or
- G. The successful bidder is not deemed "Responsive" or "Responsible". (N.J.S.A. 40A:11-2).

9. ☐ NEW JERSEY PREVAILING WAGE ACT (When Applicable) N.J.S.A. 34:11-56.25 et seq.

Pursuant to N.J.S.A. 34:11-56.25 et seq., contractors on projects for public work shall adhere to all requirements of the New Jersey Prevailing Wage Act. The contractor shall be required to submit a certified payroll record to the owner within ten (10) days of the payment of wages. The contractor is also responsible for obtaining and submitting all subcontractors' certified payroll records within the aforementioned time period. The contractor shall submit said certified payrolls in the form set forth in N.J.A.C. 12:60-6.1(c). It is the contractor's responsibility to obtain any additional copies of the certified payroll form to be submitted by contacting the New Jersey Department of Labor and Workforce Development, Division of Workplace Standards. Additional information is available at http://lwd.dol.state.nj.us/labor/wagehour/wagerate/wage_rates.html.

10. ☐ THE PUBLIC WORKS CONTRACTOR REGISTRATION ACT—N.J.S.A. 34:11-56.48 et seq.

N.J.S.A. 34:11-56.48 et seq. requires that a general or prime contractor and any listed subcontractors named in the contractor's bid proposal shall possess a certificate at the time the bid proposal is submitted. After bid proposals are received and prior to award of contract, the successful contractor shall submit a copy of the contractor's certification along with those of all listed subcontractors. All non-listed subcontractors and lower tier sub-subcontractors shall be registered prior to starting work on the project. It is the general contractor's responsibility that all non-listed sub-contractors at any tier have their certificate prior to starting work on the job.

Under the law a "contractor" is "a person, partnership, association, joint stock company, trust, corporation or other legal business entity or successor thereof who enters into a contract" which is subject to the provisions of the New Jersey Prevailing Wage Act (N.J.S.A. 34:11-56.25, et seq.) It applies to contractors based in New Jersey or in another state.

The law defines "public works projects" as contracts for "public work" as defined in the Prevailing Wage statute (N.J.S.A. 34:11-56.25(5)). The term means:

- "Construction, reconstruction, demolition, alteration, or repair work, or maintenance work, including painting and decorating, done under contract and paid for in whole or in part out of the funds of a public body, except work performed under a rehabilitation program.
- "Public work" shall also mean construction, reconstruction, demolition, alteration, or repair work, done on any property or premises, whether or not the work is paid for from public funds..."
- "Maintenance work" means the repair of existing facilities when the size, type or extent of such facilities is not thereby changed or increased. While "maintenance"

includes painting and decorating and is covered under the law, it does not include work such as routine landscape maintenance or janitorial services.

To register, a contractor must provide the State Department of Labor and Workforce Development with a full and accurately completed application form. The form is available online at http://lwd.dol.state.nj.us/labor/wagehour/regperm/pw_cont_reg.html.

N.J.S.A. 34:11-56.55 specifically prohibits accepting applications for registration as a substitute for a certificate or registration.

11. NON-COLLUSION AFFIDAVIT – N.J.S.A. 52:34-15

The Non-Collusion Affidavit, which is part of these specifications, shall be properly executed and submitted intact with the proposal.

12. NEW JERSEY ANTI-DISCRIMINATION – N.J.S.A. 10:2-1

There shall be no discrimination against any employee engaged in the work required to produce the goods and services covered by any contract resulting from this bid, or against any applicant to such employment because of race, religion, sex, national origin, creed, color, ancestry, age, marital status, affectional or sexual orientation, familial status, liability for service in the Armed Forces of the United States, or nationality. This provision shall include, but not be limited to the following: employment upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The contractor shall insert a similar provision in all subcontracts for services to be covered by any contract resulting from this bid.

13. MANDATORY EEO/AFFIRMATIVE ACTION EVIDENCE – N.J.S.A. 10:5-31 et seq. and N.J.A.C. 17-27 et seq.

No firm may be issued a contract unless it complies with the affirmative action provisions of N.J.S.A. 10:5-31 et seq. and N.J.A.C. 17:27-1 et seq. as administered by the Division of Purchase & Property Contract Compliance and Audit Unit (Division) and provided below. The contract will include the language included as attachment A in this specification.

1. Goods, Professional Services and Service Contracts

Each contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

- i. A Letter of Federal Approval indicating that the vendor is under an existing federally approved or sanctioned affirmative action program. A copy of the letter must be provided by the vendor to the Public Agency and Division. This approval letter is valid for one year from the date of issuance.
- ii. A Certificate of Employee Information Report (hereafter "Certificate"), issued in accordance with N.J.A.C. 17:27 et seq. The vendor must provide a copy of the Certificate to the Public Agency as evidence of its compliance with the regulations. The Certificate represents the review and approval of the vendor's Employee Information Report, Form AA-302 by the Division.
- iii. The successful bidder shall complete an Initial Employee Report, Form AA-302 and submit it to the Division with a check or money order for \$150.00 made payable to "Treasurer, State of New Jersey" www.state.nj.us/treasury/contract_compliance

2. Construction Contracts

All successful contractors shall complete and submit an Initial Project Manning Report (AA201-available on-line at www.state.nj.us/treasury/contract_compliance upon notification of award. Proper completion and submission of this Report shall constitute evidence of the contractor's compliance with the regulations. Failure to submit this form may result in the contract being terminated. The contractor also agrees to submit a

copy of the Monthly Project Workforce Report, Form AA-202 once a month thereafter for the duration of the contract to the Department of LWD and to the Public Agency.

14. AMERICANS WITH DISABILITIES ACT OF 1990 – 42 U.S.C. S121 01 et seq.

Discrimination on the basis of disability in contracting for the purchase of goods and services is prohibited. Bidders are required to read Americans with Disabilities language that is included in this specification and agree that the provisions of Title II of the Act are made a part of the contract. The contractor is obligated to comply with the Act and to hold the Borough harmless.

15. WORKER AND COMMUNITY RIGHT TO KNOW ACT – N.J.S.A. 34:5A-1 et seq.

The manufacturer or supplier of chemical substances or mixtures shall label them in accordance with the N.J. Worker and Community Right to Know Law (N.J.S.A. 34:5A-1 et seq., and N.J.A.C. 5:89-5 et seq.).

All direct use containers shall bear a label indicating the chemical name(s) and Chemical Abstracts Service number(s) of all hazardous substances in the container, and all other substances which are among the five most predominant substances in the container, or their trade secret registry number(s). (N.J.A.C. 8:59-5) or adhere to the requirements of The Globally Harmonized System of Classification and Labeling of Chemicals (GHS) and the U.S. Occupational Safety and Health Administration (OSHA) Hazard Communication Standard (HCS) as outlined in the Federal Register / Vol. 77, No. 58 / Monday, March 26, 2012 / Rules and Regulations as adopted in the final rule by DEPARTMENT OF LABOR, Occupational Safety and Health Administration, 29 CFR Parts 1910, 1915, and 1926, {Docket No. OSHA-H022K-2006-0062, (formerly Docket No. H022K), RIN 1218-AC20, Hazard Communication. Further, all applicable documentation must be furnished.

16. STATEMENT OF CORPORATE OWNERSHIP – N.J.S.A. 52:25-24.2 (P.L. 1977 c.33)

In accordance with N.J.S.A. 52:25-24.2, no corporation, partnership, limited partnership, limited liability corporation, limited liability partnership, Subchapter S corporation or sole proprietorship, shall be awarded a contract, unless prior to the receipt of the bid or accompanying the bid of the corporation, partnership, limited partnership, there is submitted to the Borough a statement setting forth the names and addresses of all stockholders who own 10% or more of the stock, of any class or of all individual partners who own a 10% or greater interest in the corporation, partnership. Limited partnership, limited liability corporation, limited liability partnership, Subchapter S corporation or sole proprietorship. If one or more such stockholder or partner is itself a corporation or partnership, the stockholders holding 10% or more of that corporation's stock, or the individual partners owning 10% or greater interest in that partnership, as the case may be, shall also be listed. The disclosure shall be continued until names and addresses of every non-corporate stockholder and individual partner, exceeding the 10% ownership criteria established in this act has been listed. This form shall be signed and submitted with the bid/proposal whether or not a stockholder or partner owns less than 10% of the business submitting the bid. Failure to comply requires mandatory rejection of the bid/proposal.

17. INSURANCE AND INDEMNIFICATION

If it becomes necessary for the contractor, either as principal or by agent or employee, to enter upon the premises or property of the owner in order to construct, erect, inspect, make delivery or remove property hereunder, the contractor hereby covenants and agrees to take use, provide and make all proper, necessary and sufficient precautions, safeguards, and protection against the occurrence of happenings of any accident, injuries, damages, or hurt to person or property during the course of the work herein covered and be his/her sole responsibility.

The contractor further covenants and agrees to indemnify and save harmless the owner from the payment of all sums of money or any other consideration(s) by reason of any, or all, such accidents, injuries, damages, or hurt that may happen or occur upon or about such work and all fines, penalties and loss occurred for or by reason of the violation of any owner

regulation, ordinance or the laws of the State, or the United States while said work is in progress.

The contractor shall maintain sufficient insurance to protect against all claims under Workers Compensation, General Liability and Automobile and shall be subject to approval for adequacy of protection and certificates of such insurance shall be provided with the owner named as additional insured.

A. Insurance Requirements

Worker's Compensation and Employer's Liability Insurance

This insurance shall be maintained in full force during the life of this contract by the bidder covering all employees engaged in performance of this contract pursuant to N.J.S.A. 34:15-12(a) and N.J.A.C. 12:35-1.6. Minimum Employer's Liability \$1,000,000.00.

General Liability Insurance

This insurance shall have limits of not less than \$3,000,000.00 any one person and \$3,000,000.00 any one accident for bodily injury and \$3,000,000.00 aggregate for property damage, and shall be maintained in force during the life of the contract.

Automobile Liability Insurance

This insurance covering bidder for claims arising from owned, hired and non-owned vehicles with limits of not less than \$3,000,000.00 any one person and \$3,000,000.00 any one accident for bodily injury and \$3,000,000.00 each accident for property damage, shall be maintained in force during the life of this contract by the bidder.

B. Certificates of the Required Insurance

Certificates as listed above shall be submitted along with the contract as evidence covering Comprehensive General Liability, Comprehensive Automobile Liability, and where applicable, necessary Worker's Compensation and Employer's Liability Insurance. Such coverage shall be with acceptable insurance companies operating on an admitted basis in the State of New Jersey and shall name the OWNER as an additional insured.

Self-insured contractors shall submit an affidavit attesting to their self-insured coverage and shall name the OWNER as an additional insured.

C. Indemnification

The Contractor agrees to indemnify and save harmless the Borough of Middlesex, its officers, agents and employees, from all claims, suits or actions, and damages or costs of every name and description to which the owner may be subjected or put by reason of injury to the person or property of another, or the property of the owner, resulting from:

- a) negligent acts or missions on the part of the contractor, the contractor's agents, servants or subcontractors in the delivery of goods and services, or in the performance of the work under the contract; and,
- b) the use of any copyrighted or copyrighted composition, valid trademark, secret process, patented or unpatented invention or article furnished or used in the performance of this contract.

The Borough of Middlesex will not accept Mutual Limitation of Liability terms.

18. PAYMENT

Payment will be made after a properly executed Borough voucher has been received and formally approved on the voucher list by the Governing Body at its subsequent regular meeting. The

voucher will be certified correct by the department/division head who received the goods or services.

19. TERMINATION

- A. If, through any cause, the contractor shall fail to fulfill in a timely manner obligations under the contract or if the contractor shall violate any of the requirements of the contract, the Borough shall there upon have the right to terminate the contract by giving written notice to the contractor of such termination and specifying the effective date of termination. Such termination shall relieve the Borough of any obligation for balances to the contractor of any sum or sums set forth in the contract. The Borough will pay for goods and services accepted prior to termination.
- B. Notwithstanding the above, the contractor shall not be relieved of liability to the Borough for damages sustained by the Borough by virtue of any breach of the contract by the contractor and the Borough may withhold any payments to the contractor for the purpose of compensation until such time as the exact amount of the damage due the Borough from the contractor is determined.
- C. The contractor agrees to indemnify and hold the Borough harmless from any liability to subcontractors/suppliers concerning payment for work performed or goods supplied arising out of the lawful termination of the contract by the Borough under this provision.
- D. In case of default by the contractor, the Borough may procure the goods and services from other sources and hold the contractor responsible for any excess cost.
- E. Continuation of the terms of the contract beyond the fiscal year is contingent on availability of funds in the following year's budget. In the event of unavailability of such funds, the Borough reserves the right to cancel the contract.
- F. It is understood by all parties that if, during the life of the contract, the contractor disposes of his/her business concern by acquisition, novation, merger, sale and/or transfer or by any means convey his/her interest(s) to another party, all obligations are transferred to the new party. In this event, the new owner(s) will be required to submit all documentation/legal instruments that were required in the original bid/contract. Any changes shall be approved by the Borough.
- G. The contractor will not assign any interest in the contract and shall not transfer any interest in the same without the prior written consent of the Borough.
- H. The Borough may terminate the contract for convenience by providing sixty (60) calendar days advanced notice to the contractor.
- I. The contractor shall maintain all documentation related to products, transactions or services under this contract for a period of five years from the date of final payment. Such records shall be available to the New Jersey Office of the State Comptroller upon request.
- J. For contracts that exceed one year, each fiscal year payment obligation of the Borough is conditioned upon the availability of Borough funds appropriated or allocated for the payment of such an obligation. If funds are not allocated and available for the continuance of any services performed by the bidder awarded the contract (contractor) hereunder, whether in whole or in part, the Borough at the end of any particular fiscal year may terminate such services. The Borough will notify the contractor in writing immediately of any services that will be affected by a shortage of appropriated funds. This provision shall not be construed so as to permit the Borough to terminate the contract during the term, or any service hereunder, merely in order to acquire identical services from another contractor.

- K. Neither party shall be responsible for any resulting loss or obligation to fulfill duties as specified in any of the terms or provisions of a contract if the fulfillment of any term or provision of the contract is delayed or prevented by any revolutions, insurrections, riots, wars, acts of enemies, national emergencies, strikes, floods, fires, acts of God, or by any cause not within the control of the party whose performance is interfered with which by the exercise of reasonable diligence such party is unable to prevent. Additionally, if the fulfillment of any of the terms and provisions of the contract is delayed or prevented by any court order, or action or injunction or other such agreement, the contract shall become voidable by the Borough by notice to the parties.

20. ACQUISITION, MERGE, SALE AND/OR TRANSFER OF BUSINESS, ETC.

It is understood by all parties that if, during the life of the contract, the contractor disposes of his/her business concern by acquisition, merger, sale and/or transfer or by any means convey his/her interest(s) to another party, all obligations are transferred to that new party. In this event, the new owners(s) will be required to submit, when required, a performance bond in the amount of the open balance of the contract.

21. ADDITIONS/DELETIONS OF SERVICE

The Borough reserves the right to add and/or delete services to this contract. Should a service requirement be deleted, payment to the Contractor will be reduced proportionally to the amount of service deleted in accordance with the bid price. Should additional services be required, payment to the Contractor will be increased proportionally to the amount of service added in accordance with the bid price.

- 22.** Vendor's literature and/or pricing sheets will not be accepted in lieu of completing the proposal blank(s) set forth in these specifications.

- 23.** Bidders shall not write in margins or alter the official content or requirements of the Borough bid documents.

24. SPECIFICATIONS

Any prospective bidder who wishes to challenge a bid specification shall file such challenges in writing with the contracting agent no less than three business days prior to the opening of the bids. Challenges filed after that time shall be considered void and having no impact on the contracting unit or the award of contract.

25. OWNERSHIP OF MATERIAL

The owner shall retain all of its rights and interest in any and all documents and property both hard copy and digital furnished by the owner to the contractor for the purpose of assisting the contractor in the performance of this contract. All such items shall be returned immediately to the owner at the expiration or termination of the contract or completion of any related services, pursuant thereto, whichever comes first. None of the documents and/or property shall, without the written consent of the owner, be disclosed to others or used by the contractor or permitted by the contractor to be used by their parties at any time except in the performance of the resulting contract.

Ownership of all data, materials and documentation originated and prepared for the owner pursuant to this contract shall belong exclusively to the owner. All data, reports, computerized information, programs and materials related to this project shall be delivered to and become the property of the owner upon completion of the project. The contractor shall not have the right to use, sell, or disclose the total of the interim or final work products, or make available to third parties, without the prior written consent of the owner. All information supplied to the owner may be required to be supplied on CD-ROM media compatible with the owner's computer operating system, windows based, Microsoft Office Suite 2010.

26. TRUTH IN CONTRACTING LAW

- N.J.S.A. 2C:21-34, et seq. governs false claims and representation. It is a serious crime for the bidder to knowingly submit a false claim and/or knowingly make material misrepresentation.
- N.J.S.A. 2C:27-10 provides that a person commits a crime if said person offers a benefit to a public servant for an official act performed or to be performed by a public servant, which is a violation of official duty.
- N.J.S.A. 2C:27-11 provides that a bidder commits a crime if said person, directly or indirectly, confers or agrees to confer any benefit not allowed by law to a public servant.
- Bidder should consult the statutes or legal counsel for further information.

27. PROOF OF N.J. BUSINESS REGISTRATION CERTIFICATE N.J.S.A. 52:32-44

Each bidder (contractor) is required to submit proof of business registration prior to award of the contract. Proof of registration shall be a copy of the bidder's Business Registration Certificate (BRC).

N.J.S.A. 52:32-44 imposes the following requirements on contractors and all subcontractors that knowingly provide goods or perform services for a contractor fulfilling this contract:

1. The contractor shall obtain and provide the owner the BRC of subcontractors knowingly used on this contract.
2. The contractor shall maintain and submit to the contracting agency a list of subcontractor's and their addresses that may be updated from time to time during the course of the contract performance. A complete and accurate list shall be submitted before final payment is made for goods and services rendered under the contract.
3. During the term of this contract, the contractor and its affiliates shall collect and remit, and shall notify all subcontractors and their affiliates that they must collect and remit to the Director, New Jersey Division of Taxation, the use tax due pursuant to the Sales and Use Tax Act, (N.J.S.A. 54:32B-1 et seq.) on all taxable sales of tangible personal property delivered into the State.

Failure to submit the BRC with the bid is NOT a cause for rejection. However, the Borough prefers the BRC be submitted with the bid response. If it is not provided prior to execution of a contract the bidder's bid guarantee shall be forfeited and the contract shall be awarded to the next lowest responsible bidder.

A contractor, subcontractor or supplier who fails to provide proof of business registration or provides false business registration information shall be liable to a penalty of \$25.00 for each day of violation, not to exceed \$50,000 for each business registration not properly provided or maintained under a contract with a contracting agency.

A BRC is obtained from the New Jersey Division of Revenue and Enterprise Services. Information on obtaining a BRC is available on the internet at www.nj.gov/treasury/revenue/busregcert.shtml or by phone at (609) 292-2929.

28. PAY TO PLAY – NOTICE OF DISCLOSURE REQUIREMENT

Business entities are advised of their responsibility to file an annual disclosure statement of political contributions with the New Jersey Election Law Enforcement Commission (ELEC) pursuant to N.J.S.A. 19:44A-20.27 if they receive contracts in excess of \$50,000 from public entities in a calendar year. Business entities are responsible for determining if filing is necessary. Additional information on this requirement is available from ELEC at 888-313-3532 or at www.elec.state.nj.us.

29. NON-PAYMENT OF PENALTIES AND INTEREST ON OVERDUE BILLS

Public funds may be used to pay only for goods delivered or services rendered. The Borough will not pay penalties and/or interest on overdue bills. No employee is authorized to sign a letter of credit or any other document that represents a legal commitment on the part of the Borough to pay additional fees.

30. W-9

Successful bidder/respondent shall complete W-9 Form and submit to Purchasing prior to contract award. The form is available at the following link: www.irs.gov/pub/irs-pdf/fw9.pdf

31. Health Insurance Portability and Accountability Act of 1996-HIPAA (If Applicable)

Both parties agree to comply with all requirements of the Federal Health Insurance Portability and Accountability Act of 1996 ("HIPAA") as maybe amended from time to time, and the corresponding HIPAA regulations for the confidentiality and security of medical information.

The Contractor shall:

- Not use or disclose protected health information other than as permitted or required by law
- Use appropriate safeguards to protect the confidentiality of the information
- Report any use or disclosure not permitted

The contractor, by execution of the contract, shall thereby indemnify and hold the Borough harmless from any and all liabilities, claims, actions, costs and penalties which may be incurred as the result of the failure of the contractor to comply with the requirements of the Health Insurance Portability and Accountability Act (HIPAA) or any other statute or case law protecting the privacy of persons using its services.

32. PUBLIC EMERGENCY

In the event of a Public Emergency declared at the Local, State or Federal Level, if the Borough opts to extend terms and conditions of this bid, the contractor agrees to extend the terms and conditions of this bid, whether existing, expiring or expired no longer than six months, for goods and/or services for the duration of the emergency. In the event the original contractor cannot meet this requirement, the Borough may solicit the goods and/or services from any bidder on this contract.

33. The owner and the Contractor each bind themselves and their successors, executors, administrators, heirs and assigns and legal representatives of the other party respecting all covenants and agreements and obligations of this contract.

34. The terms of this Agreement shall be construed and interpreted, and all respective rights and duties of the parties shall be governed by the laws of the State of New Jersey.

35. DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN

P.L. 2012, c.25 prohibits State and local public contracts with persons or entities engaging in certain investment activities in energy or finance sectors of Iran.

36. TREE EXPERTS AND TREE CARE OPERATOR ACT – N.J.S.A. 45:15C-1

SPECIFICATIONS

TREE REMOVAL, TRIMMING AND STUMP GRINDING

1.0 GENERAL DESCRIPTION

The purpose of this request for proposal is to establish term contracts for the prompt removal and/or trimming of trees in the Borough of Middlesex.

EXCEPTION:_____ **YES**_____ **NO**_____

2.0 PERIOD OF CONTRACT

2.1 This is a twenty-four (24) month term contract.

EXCEPTION:_____ **YES**_____ **NO**_____

3.0 GENERAL SPECIFICATIONS

3.1 Trimming of trees shall consist of the following classes of pruning as developed by the National Arborist Association and described as "pruning standards for shade trees".

Class II – Standard pruning shall consist of the removal of dead, dying, diseased, decaying, interfering, objectionable, obstructing, and weak branches, as well as selective thinning to lessen wind resistance. The removal of such described branches is to include those on the main trunk, as well as those inside the leaf area.

Class III – Hazard pruning shall consist of removal of dead, diseased, decayed, and obviously weak branches.

Class IV – Crown reduction pruning shall consist of the reduction of tops, sides, and individual limbs. It involves the removal of a parent limb or dominant leader at the point of attachment of a lateral branch.

With all classes of pruning all cuts shall be made as close to the trunk or parent limb, without cutting into the branch collar or leaving a protruding stub.

3.2 The complete removal of trees shall include the flush cutting of stumps to the ground.

3.3 All above work shall include the pick-up and disposal of all the wood and wood debris at the conclusion of each work day.

EXCEPTION:_____ **YES**_____ **NO**_____

4.0 TRAFFIC CONTROL

4.1 The maintenance and protection of traffic with minimum interference is of prime importance. When vehicular or pedestrian traffic, or both, are to be maintained within the scope of this contract, the contractor shall plan and carry out his work to provide for the safe and convenient passage of such traffic.

4.2 Traffic control devices need not be new, but shall be in good working condition. Traffic control devices shall conform to the "Manual on Uniform Traffic Control Devices".

4.3 Prior to beginning work in the area, the contractor shall set up the traffic control devices.

4.4 The contractor shall provide one individual per work crew as traffic observer (flagman). The individual shall remain on duty during the entire time the safety setup is in place and shall be no less than fifty (50) feet from the work area and shall be equipped with a bright red 24" x 24" square flag attached to a thirty-six (36") inch long staff. The traffic observer shall face oncoming traffic holding the flag in a stationary position visible to oncoming traffic.

- 4.5 In addition, when the contractor is performing, working, and occupying the shoulder area with his equipment, cones made of either plastic or rubber material, having a minimum overall height of 28", predominantly orange in color, shall be used throughout the work area adjacent to the traffic. The cones shall be spaced 40 feet apart with a 100 foot taper at each end of the work area when the traffic speeds exceed 40 mph.
- 4.6 When traffic speed is 40 mph or below, cones shall be placed in the same pattern with a distance between them of 25 feet.
- 4.7 All traffic control devices used shall be kept clean and in repair so that they furnish the fullest effect possible. No separate payment will be made for traffic control devices.
- 4.8 Contractor must comply with all current local, state, and county regulations.

EXCEPTION: _____ **YES** _____ **NO** _____

5.0 EQUIPMENT AND CREW

- 5.1 A crew shall include both laborers and equipment. As a minimum, the following number of laborers will be required to report with the said equipment in good working condition to the designated work site with each assignment.
- 5.2 For Tree Trimming – One (1) foreman-crew leader, one (1) ground man, one (1) traffic observer, one (1) tree truck with aerial lift bucket having a minimum reach of not less than 80', dump truck and power tools, brush chipper, two (2) power saws with a minimum 20 inch cutting bar, and any other incidental tools required to complete this type work including warning signs and safety devices as may be required and necessary. All crew members shall wear an orange safety vest.
- 5.3 For Tree Removal – One (1) foreman-crew leader, one (1) ground man, one (1) traffic observer, one (1) tree truck with aerial lift bucket having a minimum reach of not less than 80', dump truck and power tools, brush chipper, two (2) power saws with a minimum 20 inch cutting bar, and any other incidental tools required to complete this type work including warning signs and safety devices as may be required and necessary. All crew members shall wear an orange safety vest.
- 5.4 For Stump Removal Only – One (1) foreman-crew leader, one (1) ground man, one (1) traffic observer, one (1) stump removal machine, and any other incidental tools required to complete this work, including warning signs and safety device as may be required and necessary. All crew members shall wear an orange safety vest.

EXCEPTION: _____ **YES** _____ **NO** _____

6.0 WORKING HOURS

- 6.1 Working hours shall be determined by the Public Works Supervisor.
- 6.2 The contractor shall report to the job site at the requested time, fully ready to begin the required work. Normal working hours range from 7:00am to 5:00pm, working 8 hours with a one-half (1/2) hour lunch break, Monday through Friday

EXCEPTION: _____ **YES** _____ **NO** _____

A. FAILURE TO SUBMIT ANY OF THESE ITEMS IS MANDATORY CAUSE FOR REJECTION OF BID

- | | | |
|-------------------------------------|---|-------|
| <input checked="" type="checkbox"/> | Stockholder Disclosure Certification | _____ |
| <input checked="" type="checkbox"/> | Acknowledgement of Receipt of Addenda (To be Completed if Addenda are Issued) | _____ |
| <input checked="" type="checkbox"/> | Required Evidence EEO/Affirmative Action Regulations Questionnaire | _____ |
| <input checked="" type="checkbox"/> | Non-Collusion Affidavit | _____ |
| <input type="checkbox"/> | Bid Guarantee (bid bond or certified/cashier's check) | _____ |
| <input type="checkbox"/> | (with Power of Attorney for full amount of Bid Bond) | _____ |
| <input type="checkbox"/> | Consent of Surety (Certificate from Surety company) | _____ |
| <input type="checkbox"/> | Surety Disclosure Statement and Certification | _____ |
| <input type="checkbox"/> | Performance Bond | _____ |
| <input type="checkbox"/> | Labor and Material (Payment) Bond | _____ |
| <input type="checkbox"/> | Maintenance Bond | _____ |

B. MANDATORY ITEM(S), REQUIRED NO LATER THAN TIME PERIOD INDICATED

- | | | |
|-------------------------------------|---|-------|
| <input checked="" type="checkbox"/> | Business Registration Certificate – Bidder – Prefer with Bid Response. Required by Law prior to award of contract | _____ |
| <input type="checkbox"/> | Business Registration Certificate – Designated Subcontractor(s) – Prefer with Bid Response. Required by Law prior to award of contract | _____ |
| <input type="checkbox"/> | Public Works Contractor Registration Certificate(s) for the Bidder and Designated Subcontractors (Prior to Award, but effective at time of bid) | _____ |
| <input checked="" type="checkbox"/> | Disclosure of Investment Activities in Iran- submit with bid response | _____ |
| <input checked="" type="checkbox"/> | License(s) or Certification(s) Required by the Specifications | _____ |

C. FAILURE TO SUBMIT ANY OF THESE ITEMS AT TIME OF BID MAY BE CAUSE FOR REJECTION

- | | | |
|--------------------------|--|-------|
| <input type="checkbox"/> | Three (3) references for similar projects | _____ |
| <input type="checkbox"/> | Authorization for Background Check | _____ |
| <input type="checkbox"/> | Catalog/Price List | _____ |
| <input type="checkbox"/> | Product Samples | _____ |
| <input type="checkbox"/> | Certification of Available Equipment | _____ |
| <input type="checkbox"/> | Other: CD or USB flash drive with PDF of Bid Response along w/Printed Copies (ref page 1) CD and/or USB flash drive must be labeled with the bidder's name | _____ |
| <input type="checkbox"/> | Other: | _____ |

D. READ ONLY

- | | | |
|-------------------------------------|---|-------|
| <input checked="" type="checkbox"/> | Americans With Disability Act of 1990 Language | _____ |
| <input checked="" type="checkbox"/> | Tree Experts and Tree Care Operator Act – N.J.S.A. 45:15C-1 | _____ |

E. OPTIONAL ITEM(S)

- | | | |
|--------------------------|------------------------------------|-------|
| <input type="checkbox"/> | County Cooperative Contract Option | _____ |
|--------------------------|------------------------------------|-------|

This checklist is provided for bidder's use in assuring compliance with required documentation; however, it does not include all specification requirements and does not relieve the bidder of the need to read and comply with the specifications.

Name of Bidder: _____ Date: _____

By Authorized Representative:

Signature: _____

Print Name & Title: _____

BOROUGH OF MIDDLESEX
BID PROPOSAL FORM/SIGNATURE PAGE

TO THE BOROUGH OF MIDDLESEX:

The undersigned declares that he/she has read the Notice, Instructions, Affidavits and Scope of Services attached, that he/she has determined the conditions affecting the bid and agrees, if this bid is accepted, to furnish and deliver services per the following:

	ALL PRICES WILL INCLUDE PROMPT REMOVAL, TRIMMING AND DISPOSAL	
Item #1	Tree Removal & Trimming Hourly Rate (Regular Time)	\$
Item #2	Stump Grinding - Cost per inch of tree diameter in the longest direction (Regular Time)	\$
Item #3	Daily Rate (8-hour day) for 80' minimum reach bucket truck with operator	\$

The undersigned is a (Corporation, Partnership, Individual) under the laws of the State of _____
having its principal office at _____

_____ Company	_____ Federal I.D. # or Social Security #
_____ Address	
_____ Signature of Authorized Agent	_____ Type or Print Name
_____ Title of Authorized Agent	_____ Date
_____ Telephone Number	_____ Email Address
_____ Fax Number	

BOROUGH OF MIDDLESEX
OWNERSHIP STATEMENT - STOCKHOLDER DISCLOSURE FORM

LEGAL NAME OF BIDDER: _____

Check the box that represents the type of business organization:

- | | | |
|---|--|--|
| <input type="checkbox"/> Partnership | <input type="checkbox"/> Corporation | <input type="checkbox"/> Sole Proprietorship |
| <input type="checkbox"/> Limited Partnership | <input type="checkbox"/> Limited Liability Corporation | <input type="checkbox"/> Limited Liability Partnership |
| <input type="checkbox"/> Subchapter S Corporation | <input type="checkbox"/> Other, Please List _____ | |

List the names and addresses of all stockholders who own ten (10%) percent or more of the above company's stock, and if there **are NO STOCKHOLDERS OF 10% OR MORE, simply check the second box below**. If one or more such stockholders or partner is itself a corporation or partnership, the stockholders holding 10% or more of that corporation's stock, or the individual partners owning 10% of that corporation's stock, or the individual partners owning 10% or greater interest in that partnership, as the case may be, must also be listed.

The disclosure shall be continued until names and addresses of every person who is a non-corporate stockholder, or individual partner, exceeding the 10% ownership criteria established in this act, has been listed, in full compliance with Chapter 33 of the New Jersey Public Laws of 1977.

BIDDERS/RESPONDENTS MUST CHECK THE APPROPRIATE BOX:

- ☐ I certify that the **list below** contains the names and addresses of all **stockholders holding 10% or more** of the issued and outstanding stock of the undersigned.
- ☐ I certify that **no one stockholder** owns 10% or more of the issued and outstanding stock of the undersigned.

☐ Publicly Traded - For publicly traded entities to comply with N.J.S.A. 52:25-24.2 they may submit the name and address of each publicly traded entity, and the name and address of each person holding 10% or more beneficial interest in the publicly traded entity as of the last annual filing with the Security Exchange Commission (SEC), or foreign equivalent

Submit here the Website (URL) providing the last annual Security Exchange Commission (SEC) filing, or foreign equivalent:

The requested information is available on the following page number(s) of the SEC, or foreign equivalent, filing:

Stockholder Name _____

Address _____

Percentage of Ownership _____ %.

Stockholder Name _____

Address _____

Percentage of Ownership _____ %.

Stockholder Name _____

Address _____

Percentage of Ownership _____ %.

(Note: Attach additional pages if necessary)

(Respondent/Respondent Authorized Signature)

(Date)

(Print name of authorized signatory)

(Title)

**BOROUGH OF MIDDLESEX
NON-COLLUSION AFFIDAVIT**

State of _____
County of _____

ss:

I, _____ of the City of _____

in the County of _____ and State of _____ of full age,
being duly sworn according to law on my oath depose and say that:

I am _____ of the firm of _____
(Title or position) (Name of firm)

the bidder making this Proposal for the above named project, and that I executed the said proposal with full authority so to do; that said bidder has not, directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free, competitive bidding in connection with the above named project; and that all statements contained in said proposal and in this affidavit are true and correct, and made with full knowledge that the Borough of Middlesex relies upon the truth of the statements contained in said proposal and in the statements contained in this affidavit in awarding the contract for the said project.

I further warrant that no person or selling agency has been employed or retained to solicit or secure such contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by _____.
(Name of Contractor)

(N.J.S.A. 52:34-15)

Subscribed and sworn to

Before me this _____ day

Of _____, _____.
Signature

(Type or print name of affiant under signature)

Notary public of

My Commission expires _____.

EXHIBIT A
EEO/AFFIRMATIVE ACTION COMPLIANCE NOTICE
N.J.S.A. 10:5-31 and N.J.A.C. 17:27
GOODS, PROFESSIONAL SERVICE AND GENERAL SERVICE CONTRACTS

All successful bidders are required to submit evidence of appropriate affirmative action compliance to the Borough and Division of Public Contracts Equal Employment Opportunity Compliance. During a review, Division representatives will review the Borough files to determine whether the affirmative action evidence has been submitted by the vendor/contractor. Specifically, each vendor/contractor shall submit to the Borough, prior to execution of the contract, one of the following documents:

Goods and General Service Vendors

1. Letter of Federal Approval indicating that the vendor is under an existing federally approved or sanctioned affirmative action program. A copy of the approval letter is to be provided by the vendor to the Borough and the Division. This approval letter is valid for one year from the date of issuance.

Do you have a federally-approved or sanctioned EEO/AA program? Yes ☐ No ☐
If yes, please submit a photo static copy of such approval.

2. A Certificate of Employee Information Report (hereafter "Certificate"), issued in accordance with N.J.A.C. 17:27-1.1 et seq. The vendor must provide a copy of the Certificate to the Borough as evidence of its compliance with the regulations. The Certificate represents the review and approval of the vendor's Employee Information Report, Form AA-302 by the Division. The period of validity of the Certificate is indicated on its face. Certificates must be renewed prior to their expiration date in order to remain valid.

Do you have a State Certificate of Employee Information Report Approval? Yes ☐ No ☐
If yes, please submit a photo static copy of such approval.

3. The successful vendor shall complete an Initial Employee Report, Form AA-302 and submit it to the Division with \$150.00 Fee and forward a copy of the Form to the Borough. Upon submission and review by the Division, this report shall constitute evidence of compliance with the regulations. Prior to execution of the contract, the EEO/AA evidence must be submitted.

The successful vendor may obtain the Affirmative Action Employee Information Report (AA302) on the Division website www.state.nj.us/treasury/contract_compliance.

The successful vendor(s) must submit the AA302 Report to the Division of Public Contracts Equal Employment Opportunity Compliance, with a copy to Public Agency.

The undersigned vendor certifies that he/she is aware of the commitment to comply with the requirements of N.J.S.A. 10:5-31 and N.J.A.C. 17:27 and agrees to furnish the required forms of evidence.

The undersigned vendor further understands that his/her bid shall be rejected as non-responsive if said contractor fails to comply with the requirements of N.J.S.A. 10:5-31 and N.J.A.C. 17:27.

COMPANY: _____ SIGNATURE: _____

PRINT NAME: _____ TITLE: _____

DATE: _____

EXHIBIT A
MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE
N.J.S.A. 10:5-31 et seq. (P.L. 1975, C. 127)
N.J.A.C. 17:27
GOODS, PROFESSIONAL SERVICE AND GENERAL SERVICE CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the contractor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to meet targeted Borough employment goals established in accordance with N.J.A.C. 17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

Letter of Federal Affirmative Action Plan Approval

Certificate of Employee Information Report

Employee Information Report Form AA302 (electronically provided by the Division and distributed to the public agency through the Division's website at www.state.nj.us/treasury/contract_compliance).

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Purchase & Property, CCAU, EEO Monitoring Program as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the

Division of Purchase & Property, CCAU, EEO Monitoring Program for conducting a compliance investigation pursuant to **Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.**

SAMPLE CERTIFICATE OF EMPLOYEE INFORMATION REPORT


Certification 111XX

CERTIFICATE OF EMPLOYEE INFORMATION REPORT

INITIAL

This is to certify that the contractor listed below has submitted an Employee Information Report pursuant to N.J.A.C. 17:27-1.1 et. seq. and the State Treasurer has approved said report. This approval will remain in effect for the period of 15-DEC-20XX to 15-DEC-20XX

SAMPLE COMPANY, INC.
33 WEST STATE STREET
TRENTON, NJ 08625


State Treasurer

VOID

BOROUGH OF MIDDLESEX

AMERICANS WITH DISABILITIES ACT OF 1990 Equal Opportunity for Individuals with Disability

The Contractor and the Owner, do hereby agree that the provisions of Title 11 of the Americans With Disabilities Act of 1990 (the "Act") (42 U.S.C. S121 01 et seq.), which prohibits discrimination on the basis of disability by public entities in all services, programs, and activities provided or made available by public entities, and the rules and regulations promulgated pursuant there unto, are made a part of this contract. In providing any aid, benefit, or service on behalf of the owner pursuant to this contract, the contractor agrees that the performance shall be in strict compliance with the Act. In the event that the contractor, its agents, servants, employees, or subcontractors violate or are alleged to have violated the Act during the performance of this contract, the contractor shall defend the owner in any action or administrative proceeding commenced pursuant to this Act. The contractor shall indemnify, protect, and save harmless the owner, its agents, servants, and employees from and against any and all suits, claims, losses, demands, or damages, of whatever kind or nature arising out of or claimed to arise out of the alleged violation. The contractor shall, at its own expense, appear, defend, and pay any and all charges for legal services and any and all costs and other expenses arising from such action or administrative proceeding or incurred in connection therewith. In any and all complaints brought pursuant to the owner's grievance procedure, the contractor agrees to abide by any decision of the owner which is rendered pursuant to said grievance procedure. If any action or administrative proceeding results in an award of damages against the owner, or if the owner incurs any expense to cure a violation of the ADA which has been brought pursuant to its grievance procedure, the contractor shall satisfy and discharge the same at its own expense.

The owner shall, as soon as practicable after a claim has been made against it, give written notice thereof to the contractor along with full and complete particulars of the claim, If any action or administrative proceeding is brought against the owner or any of its agents, servants, and employees, the *owner shall* expeditiously forward or have forwarded to the contractor every demand, complaint, notice, summons, pleading, or other process received by the owner or its representatives.

It is expressly agreed and understood that any approval by the owner of the services provided by the contractor pursuant to this contract will not relieve the contractor of the obligation to comply with the Act and to defend, indemnify, protect, and save harmless the owner pursuant to this paragraph.

It is further agreed and understood that the owner assumes no obligation to indemnify or save harmless the contractor, its agents, servants, employees and subcontractors for any claim which may arise out of their performance of this Agreement. Furthermore, the contractor expressly understands and agrees that the provisions of this indemnification clause shall in no way limit the contractor's obligations assumed in this Agreement, nor shall they be construed to relieve the contractor from any liability, nor preclude the owner from taking any other actions available to it under any other provisions of the Agreement or otherwise at law.


BOROUGH OF MIDDLESEX

THESE ARE **SAMPLES** OF THE **ONLY** ACCEPTABLE
BUSINESS REGISTRATION CERTIFICATES.

PREFER SUBMITTED WITH BID RESPONSE
REQUIRED BY LAW PRIOR TO AWARD OF CONTRACT

STATE OF NEW JERSEY BUSINESS REGISTRATION CERTIFICATE FOR STATE AGENCY AND CASINO SERVICE CONTRACTORS		DEPARTMENT OF TREASURY DIVISION OF REVENUE PO BOX 252 TRENTON, N.J. 08646-0252
TAXPAYER NAME:	TRADE NAME:	 Acting Director
TAX REGISTRATION TEST ACCOUNT	CLIENT REGISTRATION	
TAXPAYER IDENTIFICATION#:	SEQUENCE NUMBER:	
970-097-382/500	0107330	
ADDRESS:	ISSUANCE DATE:	
847 ROEBLING AVE TRENTON NJ 08611	07/14/04	
EFFECTIVE DATE:		
01/01/01		
FORM-BRC(08-01)		

This Certificate is NOT assignable or transferable. It must be conspicuously displayed at above address.

STATE OF NEW JERSEY BUSINESS REGISTRATION CERTIFICATE	
	
Taxpayer Name:	TAX REG TEST ACCOUNT
Trade Name:	
Address:	847 ROEBLING AVE TRENTON, NJ 08611
Certificate Number:	1093907
Date of Issuance:	October 14, 2004
For Office Use Only:	
20041014112823533	

BOROUGH OF MIDDLESEX

DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN

BID/RFP/Solicitation Number:

Bidder/Officer:

Part 1: Certification

BIDDERS ARE TO COMPLETE PART 1 BY CHECKING **EITHER BOX**

Pursuant to Public Law 2012, c. 25, any person or entity that submits a bid or proposal or otherwise proposes to enter into or renew a contract must complete the certification below to attest, under penalty of perjury, that neither the person or entity, nor any of its parents, subsidiaries, or affiliates, is identified on the Department of the Treasury's Chapter 25 list as a person or entity engaging in investment activities in Iran. The Chapter 25 list is found on the Division's website at <http://www.state.nj.us/treasury/purchase/pdf/Chapter25List.pdf>. Bidders must review this list prior to completing the below certification. Failure to complete the certification may render a bidder's proposal non-responsive. If the Director finds a person or entity to be in violation of the law, s/he shall take action as may be appropriate and provided by law, rule or contract, including but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring the party in default and seeking debarment or suspension of the party.

PLEASE CHECK THE APPROPRIATE BOX:

I ☐ certify, pursuant to Public Law 2012, c. 25, that neither the bidder listed above nor any of the bidder's parents, subsidiaries, or affiliates is listed on the N.J. Department of the Treasury's list of entities determined to be engaged in prohibited activities in Iran pursuant to P.L. 2012, c. 25 ("Chapter 25 List"). I further certify that I am the person listed above, or I am an officer or representative of the entity listed above and am authorized to make this certification on its behalf. I will skip Part 2 and sign and complete the Certification below.

OR

I ☐ am unable to certify as above because the bidder and/or one or more of its parents, subsidiaries, or affiliates is listed on the Department's Chapter 25 List. I will provide a detailed, accurate and precise description of the activities in Part 2 below, sign and complete the Certification below.

PART 2: PLEASE PROVIDE FURTHER INFORMATION RELATED TO INVESTMENT ACTIVITIES IN IRAN

You must provide a detailed, accurate and precise description of the activities of the bidding person/entity, or one of its parents, subsidiaries or affiliates, engaging in the investment activities in Iran on additional sheets provided by you.

Certification: I, being duly sworn upon my oath, hereby represent and state that the foregoing information and any attachments thereto to the best of my knowledge are true and complete. I attest that I am authorized to execute this certification on behalf of the above-referenced person or entity. I acknowledge that Borough of Middlesex is relying on the information contained herein and thereby acknowledge that I am under a continuing obligation from the date of this certification through the completion of any contracts with the Borough to notify the Borough in writing of any changes to the answers of information contained herein. I acknowledge that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification, and if I do so, I recognize that I am subject to criminal prosecution under the law and that it will also constitute a material breach of my agreement(s) with the State of New Jersey and the Borough of Middlesex, New Jersey and that the State of New Jersey and the Borough of Middlesex at its option may declare any contract(s) resulting from this certification void and unenforceable.

Full Name (Print) _____ Signature: _____

Title _____ Date: _____

BOROUGH OF MIDDLESEX

ACKNOWLEDGMENT OF RECEIPT OF ADDENDA

The undersigned Bidder hereby acknowledges receipt of the following Addenda:

ADDENDUM NUMBER	DATE	ACKNOWLEDGE RECEIPT (Initial)
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

☐ No Addenda were received:

Acknowledged for: _____
(Name of Bidder)

By: _____
(Signature of Authorized Representative)

Name: _____
(Print or Type)

Title: _____

Date: _____

FORM NOT REQUIRED IF NO ADDENDA ISSUED

TREE EXPERTS AND TREE CARE OPERATOR ACT – N.J.S.A. 45:15C-1

CHAPTER 237

AN ACT concerning the licensure of tree experts and tree care operators and the registration of certain employers, supplementing Title 45 of the Revised Statutes, and repealing P.L.1940, c.100 and sections 7 and 8 of P.L.1996, c.20.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.45:15C-11 Short title.

1. This act shall be known and may be cited as the "Tree Experts and Tree Care Operators Licensing Act."

C.45:15C-12 Definitions relative to licensing of tree experts, care operators.

2. For the purposes of this act:

"Board" means the New Jersey Board of Tree Experts established pursuant to section 3 of this act.

"Licensed tree care operator" means a person licensed to provide tree care operator services in the State pursuant to subsection b. of section 7 of this act.

"Licensed tree expert" means a person licensed to provide tree expert services in this State pursuant to subsection a. of section 7 of this act.

"Tree care operator services" means and includes tree pruning, repairing, brush cutting or removal, tree removal, and stump grinding or removal.

"Tree care services" means tree care operator services and tree expert services as established by this act.

"Tree expert services" means and includes tree pruning, repairing, brush cutting or removal, tree removal, stump grinding or removal, tree establishment, fertilization, cabling and bracing, lightning protection, consulting, diagnosis, and treatment of tree problems or diseases, tree management during site planning and development, tree assessment and risk management, and application of pesticides or any other form of tree maintenance.

C.45:15C-13 New Jersey Board of Tree Experts.

3. There is established in the Department of Environmental Protection the New Jersey Board of Tree Experts. The board shall consist of nine members, including the Commissioner of the Department of Environmental Protection or the commissioner's designee, who shall serve ex officio, and eight members, appointed by the Governor with the advise and consent of the Senate as follows: five shall be licensed tree experts, two shall be licensed tree care operators, and one shall possess knowledge of arboriculture or forestry, including urban forestry. However, of the public members first appointed, three of the five licensed tree expert memberships shall be appointed from the members of the board of tree experts established by P.L.1940, c.100 (C.45:15-1 et seq.), participating on the board on the date of enactment of this act, and the remaining tree experts first appointed shall be certified, on or before the date of enactment of this act, pursuant to the provisions of P.L.1940, c.100 (C.45:15C-1 et seq.). The initial members of the board, including the tree care operators first appointed, need not be licensed until 180 days following the promulgation of initial regulations by the board to carry out the provisions of this act. Thereafter, the members of the board subsequently appointed shall be licensed before appointment. The three members of the board of tree experts shall be appointed for a term of three years, and one of the initial tree care operators shall be appointed for a term of three years; the remaining two initial tree experts and the remaining initial tree care operator shall be appointed for a term of two years; and the initial member possessing knowledge of arboriculture or forestry shall be appointed

for a term of one year. Thereafter, all members appointed shall serve for terms of three years or until their successors are appointed and qualified. Vacancies shall be filled for the unexpired terms only.

C.45:15C-14 Board, officers, meetings, compensation.

4. The board shall annually elect from among its members a chairman and a vice-chairman. The board shall meet at least four times per year and may hold additional meetings as necessary to discharge its duties. A majority of the total authorized membership of the board may exercise any of the powers of the board at any meeting. The members of the board shall serve without compensation, but the board may, within the limits of funds appropriated or otherwise made available to it, reimburse members for actual expenses necessarily incurred in the discharge of their official duties, according to rules and regulations promulgated by the Commissioner of the Department of Environmental Protection.

C.45:15C-15 Duties of board.

5. The board shall:
- a. Review the qualifications of an applicant for licensure under the act;
 - b. Establish standards for examinations for licensure;
 - c. Issue and renew licenses and assess fees therefor;
 - d. Establish standards by regulation, which shall include, but not be limited to, the appropriate standards of the American National Standards Institute (ANSI), and any related standards and best management practices;
 - e. Suspend or revoke licenses or registrations for violations of the act;
 - f. Maintain a registry of licensees;
 - g. Adopt a canon of professional ethics;
 - h. Adopt such regulations as may be necessary to effectuate the purposes of the act;
 - i. Establish fees by regulation for examinations, applications for licensure, and license renewals. The fees shall be sufficient to defray expenses incurred by the board in the performance of its duties under the act;
 - j. Conduct such worksite inspections as may be necessary to enforce the provisions of this act; and
 - k. Maintain a registry of businesses engaged in tree care services, and charge a fee therefor.

C.45:15C-16 Development, designation of examinations to determine qualification.

6. The board shall develop an examination or designate examinations to evaluate the knowledge, ability, and fitness of applicants to perform as tree experts or tree care operators, respectively, and shall administer the examinations at least semi-annually at times and places to be determined by the board. The board shall provide for adequate written notice of the time and place of the examinations. An applicant who fails an examination may not retake the examination earlier than three months following the initial examination. There shall be no limitation on the number of times an examination may be taken. All licenses shall be issued on a biennial basis. A person may seek renewal of a license upon submission of a renewal application and the payment of a renewal fee established by the board. If a license expires without being renewed, the license may be renewed within one year of expiration upon the payment of a prorated fee. The determination of the board as to an applicant's qualifications for any examination shall constitute final agency action.

C.45:15C-17 Licensure required for tree expert, tree care operator.

7. a. No person shall present himself to the public as a licensed tree expert or use the designation "L.T.E.," without licensure by the board. A person shall not be eligible for licensure pursuant to this subsection until the final promulgation of initial regulations by the board to carry out the provisions of this act. A candidate for licensure shall:

- (1) be at least 18 years of age;
- (2) be of good moral character;
- (3) (a) be a graduate from a four year college with a degree in forestry, arboriculture, ornamental horticulture, natural resources, or any other curriculum approved by the board; or
(b) have completed two years of college and passed courses approved by the board, and have been continuously employed in the practice of arboriculture for a period of at least three years preceding the date of his application for licensure; or
(c) be continuously employed in the practice of arboriculture for at least five years immediately preceding the date of application for licensure; and
(4) except as provided in subsection c. of this section, have passed an examination established or designated by the board.

b. No person shall present himself to the public as a licensed tree care operator or use the designation "L.T.C.O.," without licensure by the board. A person shall not be eligible for licensure pursuant to this subsection until the final promulgation of initial regulations by the board to carry out the provisions of this act. A candidate for licensure shall:

- (1) be at least 18 years of age;
- (2) be of good moral character;
- (3) (a) be a graduate from a four year college with a degree in arboriculture or an equivalent major field of study, and have been continuously employed in the practice of arboriculture for a period of at least one year preceding the date of his application for licensure; or
(b) be a graduate from a two year college with a degree in arboriculture or an equivalent major field of study, and have been continuously employed in the practice of arboriculture for a period of at least two years preceding the date of his application for licensure; or
(c) be continuously employed in the practice of arboriculture for at least three years preceding the date of his application for licensure; and
(4) except as provided in subsection c. of this section, have passed an examination established by the board.

c. Notwithstanding the provisions of subsections a. and b., for 360 days after the date regulations are promulgated pursuant to the provisions of this act:

- (1) any person of good moral character who has received certification as a tree expert pursuant to P.L.1940, c.100 (C.45:15C-1 et seq.) before the date of its repeal may, if in good standing with the board, acquire a license as a tree expert without sitting for an examination pursuant to subsection a. of this section pursuant to regulations established by the board; and
(2) any person of good moral character who has documented to the satisfaction of the board that he has been engaged in the practice of arboriculture for seven years preceding the effective date of this act may acquire a license as a tree care operator without sitting for an examination pursuant to subsection b. of this section, pursuant to regulations established by the board.

Licenses issued pursuant to this subsection shall be renewed biennially.

- d. Persons licensed under this act shall receive a certificate evidencing their licensure.

e. Any person licensed as a tree care operator may subsequently apply for licensure as a tree expert upon meeting the qualifications for licensure.

C.45:15C-18 Form for application; maintenance of records.

8. a. Applications for licenses as a tree expert or a tree care operator shall be on forms prescribed and furnished by the board and shall contain statements under oath showing the applicant's education or other qualification for licensure. The application shall be accompanied by an application fee as established by the board by regulation. No license shall be issued in the name of a corporation, firm, partnership, or other form of business organization.

b. The board shall maintain a record of all individual applicants for licensure and all licensees, including the person's name, age, education, and other qualifications, the person's place of residence, the location in which the person is employed, and a record of the person's fulfillment of any continuing education requirements established by this act.

c. The board may, in its discretion, grant a tree expert license or a tree care operator license to any person who is not a resident of this State and who is the lawful holder of a substantially equivalent license or certification issued by another jurisdiction, as determined by the board.

C.45:15C-19 Continuing education requirement.

9. a. Every licensed tree expert and licensed tree care operator shall complete, as a condition for biennial license renewal, no less than 32 credits of continuing education in courses of study approved by the board. Each hour of instruction shall be equivalent to one credit. The board may waive requirements for continuing education on an individual basis for reasons of hardship such as illness or disability or other good cause. Evidence of the fulfillment of this requirement shall be submitted to the board in a form and manner established by the board.

b. The board shall review the content of courses of study offered by colleges, universities, and other institutions or organizations for the awarding of degrees or credits in subjects related to arboriculture and make the list available to the public. The board shall establish and maintain minimum requirements for courses to meet continuing education requirements by establishing a list of approved subjects and courses of study.

C.45:15C-20 Compliance with laws and regulations in rendering professional services.

10. In rendering professional services, a licensed tree expert or licensed tree care operator shall comply in all respects with the applicable laws and regulations pertaining to tree expert or tree care operator services and shall have the duty to make every reasonable effort to protect the safety, health, property, and welfare of the public. This shall include ensuring the safe operation of all equipment used in the performance of tree expert or tree care operator services, under guidelines established by the Department of Environmental Protection or by the board.

C.45:15C-21 Refusal to issue, renew, suspension, revocation of license.

11. The board may refuse to issue or renew or may suspend or revoke a license or may refuse to admit a person to an examination for licensure, after notice and hearing, upon a finding that an applicant or licensee:

a. Has obtained a license or authorization to sit for an examination through fraud, deception, or misrepresentation;

- b. Has conducted work, or allowed work to be conducted under his supervision, in a manner not in compliance with standards approved by the board;
- c. Has engaged in the use of dishonesty, fraud, deception, misrepresentation, false promise, or false pretense in the course of his business;
- d. Has engaged in gross negligence or gross incompetence;
- e. Has engaged in repeated acts of negligence or incompetence;
- f. Has engaged in occupational misconduct, as determined by the board;
- g. Has been convicted of any crime involving moral turpitude, any crime relating adversely to the activities regulated by the board, or any crime of the first, second, third, or fourth degree;
- h. Has had his authority to engage in the activities regulated by the board revoked or suspended by any other state, agency, or authority;
- i. Has failed to comply with the provisions of this act or any regulation promulgated pursuant thereto, including canons of ethics established by the board;
- j. Is incapable, for medical or any other good cause, of discharging the functions of a licensee in a manner consistent with the health, safety, and welfare of the public;
- k. Has engaged in any form of false or misleading advertising or promotional activities, including, but not limited to, holding himself out to be a licensed tree expert, an arborist, licensed tree care operator, a tree surgeon, a tree care business, or any similar designation, or using the abbreviation "L.T.E." or "L.T.C.O." without being licensed as a tree expert or a tree care operator as provided for in this act; or
- l. Has failed to maintain records required by the board.

C.45:15C-22 Biennial registration; required information.

12. Every business engaged in providing tree expert or tree care operator services shall register biennially with the board as a condition of doing business in this State and shall provide the following information:
- a. The name and residence of the owner or owners of the tree care business;
 - b. The principal address of the tree care business, and any branch office or subsidiary of the business;
 - c. The names and addresses of every licensed tree expert or licensed tree care operator employed by the business and the location of each such licensee, if at a branch office other than the business' main office;
 - d. Proof of general liability insurance or a letter of credit of a type and amount required by the board by regulation;
 - e. Proof of workers' compensation insurance coverage required pursuant to chapter 15 of Title 34 of the Revised Statutes;
 - f. Proof that at least one employee of the tree care business, located at the principal office of the tree care business shall be licensed either as a tree expert or tree care operator, and at least one employee of the tree care business, located at each branch office of the tree care business shall be licensed either as a tree expert or tree care operator; and
 - g. Any other information required by the board.

C.45:15C-23 Instruction, training for employees.

13. Every tree care business shall provide instruction and training for its employees in the proper use, inspection and maintenance of tools and equipment and shall require that safe working practices are observed in accordance with the appropriate standards of the American National

Standards Institute (ANSI), as well as any additional standards designated by the board by regulation.

Every tree care business shall submit documentation of its training program for employees to the board annually, which shall include a model tree safety program checklist, proof of general liability insurance coverage or a letter of credit in an amount established by the board, and proof of workers' compensation insurance.

C.45:15C-24 Revocation, suspension of registration.

14. The board may revoke or suspend a registration of any tree care business, after notice and hearing, that the business:

a. Has failed to demonstrate that the employer, or at least one employee in each principal office and branch location who is responsible for the supervision of workers in the performance of tree expert or tree care operator services, is in possession of a tree expert license or a tree care operator license;

b. Has failed to ensure the safe operation of all equipment used in the performance of tree expert or tree care operator services;

c. Has allowed work to be conducted in a manner not in compliance with standards approved by the board;

d. Has failed to provide instruction and training for its employees, as required by this act;

e. Has engaged in the use of dishonesty, fraud, deception, misrepresentation, false promise, or false pretense in the course of his business;

f. Has been found guilty of gross negligence or incompetence;

g. Has had the authority to engage in tree expert or tree care operator services revoked or suspended by any other state, agency, or authority;

h. Has failed to comply with the provisions of this act or any regulation promulgated pursuant thereto;

i. Has engaged in any form of false or misleading advertising or promotional activities;

or

j. Has failed to maintain records required by the board.

C.45:15C-25 Cooperation with DEP, board.

15. In the performance of tree expert or tree care operator services, a licensed tree expert or licensed tree care operator and every tree care business shall cooperate fully with the Department of Environmental Protection and the board in an investigation or adjudication of an alleged violation of this law or any regulations promulgated pursuant thereto, and upon request, shall provide copies of any documents that shall be requested in connection therewith.

C.45:15C-26 Investigation of unlawful activity.

16. Whenever it shall appear to the board or the Department of Environmental Protection that a person has engaged in, or is engaging in, any unlawful activity under the provisions of this act, the person may be required to file, on a form prescribed by regulation, a statement in writing under oath as to the facts and circumstances concerning the rendering of any service or other violation of this act. The board or the department may examine any person in connection with any act or practice subject to the act, inspect any premises upon which any violation is alleged to have taken place or premises that constitute the licensee's place of business, and examine any record, book, document, account or paper maintained by or for any licensee in the conduct of his business.

C.45:15C-27 Notice, hearing prior to suspension, revocation of license.

17. Suspension or revocation of a license by the board shall take place only following notice and a hearing, sent to the licensee at least 20 days prior to the hearing. No license shall be revoked or suspended until the conclusion of any hearing. The board shall render its judgment no later than 20 days following the conclusion of the hearing.

C.45:15C-28 Additional fines.

18. In addition to suspension or revocation of a license, the board may levy a fine, not to exceed \$1,000 for a first violation and not to exceed \$2,500 for a second or subsequent violation of this act. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate, and distinct offense. The civil penalty shall be issued for and recovered by and in the name of the board, and shall be collected by summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), including reimbursement for the cost of investigation.

C.45:15C-29 Injunction prohibiting act, practice.

19. Whenever it shall appear to the board or the Department of Environmental Protection that a violation of this act has occurred, is occurring, or will occur, the Attorney General, in addition to any other proceeding authorized by law, may seek and obtain in a summary proceeding in the Superior Court an injunction prohibiting the act or practice. The court may assess a civil penalty in accordance with the provisions of this act, but the court shall not suspend or revoke any license issued by the board.

C.45:15C-30 Appeal.

20. Any person aggrieved by an order or finding by the board or the commissioner may appeal the order or finding to the Superior Court.

C.45:15C-31 Inapplicability of act.

21. The provisions of this act shall not apply to:

a. Any public utility or any employee of a public utility while engaged in the actual performance of his duties as an employee;

b. Any employer under contract with a public utility who is engaged in tree trimming or any other utility vegetation management practice for purpose of line clearance, or any employee of the employer while engaged in the actual performance of duties in regard to tree trimming or other utility vegetation management practice or for the installation of underground facilities or associated site construction;

c. Any forestry activities that are conducted under the forest management and stewardship programs approved by the State Forester, provided that tree climbing is not performed, nor are aerial lifts, cranes, or rope and rigging operations used;

d. Landscape construction activities, including those performed by, or under the direction of, a landscape architect, or ground based landscape maintenance activities such as pruning, fertilization, insect and disease control, planting, transplanting and all other forms of ground based landscape maintenance, in compliance with the sections of the American National Standards Institute practice standards set forth by the board by regulation, with applicable safety standards and regulations promulgated by the federal Occupational Safety and Health Administration, and with any pesticide regulations promulgated by the Department of Environmental Protection. For the purposes of this subsection, ground based landscape maintenance means operations that do not involve

climbing, the use of aerial lifts, cranes, rope and rigging operations, or the removal of trees over 6 inch D.B.H;

e. Any person or employer that does not offer tree care services for hire;

f. Any trees being removed pursuant to an approved site plan or subdivision approval, provided that the tree removal activities are performed in compliance with the sections of the American National Standards Institute practice standards set forth by the board by regulation, with applicable safety standards and regulations promulgated by the federal Occupational Safety and Health Administration, and with applicable safety standards of the American National Standards Institute as designated by the board by regulation; and

g. Any employee of a municipality or county while engaged in the actual performance of his duties as an employee.

C.45:15C-32 Deposit, use of fees and penalties.

22. All fees and penalties collected pursuant to this act shall be deposited with the board, and their use shall be authorized by the board for the purposes of carrying out the provisions of this act.

Repealer.

23. The following are repealed:

P.L.1940, c.100 (C.45:15C-1 et seq.); and

Sections 7 and 8 of P.L.1996, c.20 (C.45:15C-2.1 and -7.1).

24. This act shall take effect immediately, except for section 23, which shall take effect upon the final promulgation of initial regulations by the board necessary to carry out the provisions of this act.

Approved January 16, 2010.